

REMARKS

Claims 1-5 and 11-16 are pending and under consideration. Claims 6-10 and 17 are withdrawn from consideration.

It is noted that the references in attachment 1(f) in the IDS filed June 22, 2004 have not been considered. In a telephonic discussion with the Examiner on January 8, 2007, the Examiner indicated that he would consider these references if the attachment 1(f) was re-submitted. Thus, the attachment 1(f) is re-submitted for consideration.

The Examiner also indicated that the Maeda reference discussed in the Office Action is U.S. 6,401,599.

Using independent claim 1 as an example, this claim recites a controller controlling the drum driving part to unwind the mixing bag from the upper and lower kneading drums based upon rotation position signals generated by the rotation sensing part and cancellation signal from the cancel button.

The Examiner admits that the cited references do not teach these features, but instead states that these are functional features that do not result in any structural differences. However, there is nothing intrinsically wrong with the use of functional claim language. *In re Swinehart and Sfiligoj*, 169 USPQ 226 at 228. However, where the Patent Office has reason to believe that a functional limitation asserted to be critical for establishing novelty in the claimed subject matter may, in fact, be an inherent characteristic of the prior art, it possesses the authority to require the applicant to prove that the subject matter shown to be in the prior art does not possess the characteristic relied on. *Id.* at 229.

It can be inferred from *In re Swinehart and Sfiligoj* that functional distinctions can distinguish over the prior art, provided that the applicant can prove the prior art does not possess the relied-upon feature.

In particular, Maeda teaches the general concept of having a stop button. However, there is no unwinding or rotation position signals based on the stopping. Thus, it is submitted that this reference does not possess the claimed feature of a controller controlling the drum driving part to unwind the mixing bag from the upper and lower kneading drums based upon rotation position signals generated by the rotation sensing part and cancellation signal from the cancel button.

Accordingly, withdrawal of the rejection is requested.

Serial No. 10/809,371

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

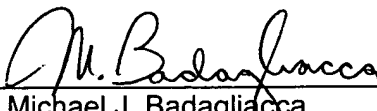
Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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